IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO.24150 M OF 2007

DATE OF DECISION: OCTOBER 11, 2007

Paramjit Kaur

.....Petitioner

VERSUS

State of Punjab and another

....Respondents

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

PRESENT: Mr. R. S. Ahluwalia, Advocate,
for the petitioner.

Mr. Shailesh Gupta, DAG, Punjab,
for respondent No.1.

None for respondent No.2.

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RANJIT SINGH, J. (ORAL)

The petitioner, who is married sister-in-law of complainant (respondent No.2) Amritpal Kaur has filed this petition, seeking quashing of FIR, involving her for an offence under Section 498A IPC.

Amarbir Singh, brother of petitioner, married Amritpal Kaur @ Renu, respondent No.2 on 10.3.2003. This FIR is registered on the basis of a letter written by respondent No.2 to S.S.P., Batala. Grievance raised is that she had given an earlier application, which was registered at No.428 and was marked to

DSP, Dera Baba Nanak, for investigation. It is stated that the complainant did not get justice and accordingly had filed another application, demanding justice and for initiating proceedings against the persons referred to in the application. Otherwise, in the complaint, it is generally alleged that husband Amarbir Singh, mother-in-law Gurmeet Kaur, sister-in-law Paramjit Kaur (petitioner) were harassing respondent No.2 for not fulfilling the demand of dowry. Allegation also is that after marriage, when the complainant came to the village of her husband, 15 tola of gold, one motor cycle make Passion and clothes for relatives were given as dowry. It is further alleged that from very first date, father-in-law, mother-in-law, sister-in-law and husband started teasing the complainant on the pretext that these days motor cycle is given only by lowly placed persons and that all the friends of Amarbir Singh got car as dowry in their marriages. Claiming that father of the complainant had spent lacs of rupees in this marriage, it is stated that he died of cancer during April 2004. Grievance is that respondent No.2 was brought to cremation ground but was taken back from there only by her husband to her in-laws place. The motor cycle given in dowry is allegedly sold. The complainant also complains that she was got aborted after her pregnancy. Allegation of beating is also made. It is also stated that in April 2005, a son, namely, Preet Singh, was born to the complainant, who, at the time of lodging the FIR, was one and a half year old. As per the allegation, the complainant was not permitted to take her child along, whenever she went to meet her parents. The relatives of the complainant also tried to intervene and explained the things to the in-laws but they always avoided them.

Some articles at the time of birth of the child were statedly given, including, clothes for the newly born, though the in-laws were expecting a car. Since the car was not given to them, they started troubling the complainant. Even on the death of uncle of the complainant, husband Amarbir had accompanied her and while going back, took away their son from the Bhog ceremony itself. Other allegations of creating trouble for the complainant made by in-laws are also referred in this complaint. The complainant claims that she had written letter in this regard to her brother. Allegation of abuse by the husband to her brother on telephone on 23.8.2006 is made. The husband had further told her brother to take the complainant away and that he would prefer to keep a servant instead. Having so spoken, the husband is alleged to have given slaps and asked the complainant to go out of his house. When the brother of the complainant came to meet her, he was abused and demand of dowry was raised besides stipulating that otherwise the complainant be taken away. Ultimately, it is stated that the complainant had been turned out from the house after taking one and a half year old son that she is having. It is accordingly prayed that action be taken against all the persons mentioned in the FIR.

Noticing the fact that there was no specific allegation made against the petitioner, who is a married sister-in-law, notice in this case was issued to the State. Service is complete. State has filed reply whereas no one has put in appearance on behalf of respondent No.2.

In the reply filed by the State, it is conceded that the allegations made by respondent No.2 were earlier got investigated by

DSP, Dera Baba Nanak, and nothing incriminating was found against the petitioner. The complaint filed by respondent No.2 was accordingly ordered to be filed. It is, however, denied that on the basis of same very allegation, SSP, Batala, without conducting any further investigation, has ordered registration of this FIR. It is disclosed that upon receipt of the present complaint, opinion of ADA (Legal) was sought, who opined that offence under Section 498A IPC is made out from the allegations contained in the FIR. Otherwise, the averments made in the petition that allegations are general and vague in nature is denied in the reply filed by the State.

Unlike, normal cases of this nature, the petitioner is alleged an offence under Section 498-A alone. The position that would emerge from the pleadings is that respondent No.2 had filed this complaint, which was marked for investigation to DSP, Dera Baba Nanak. It is conceded that DSP, Dera Baba Nanak, found that the allegations made in the FIR were not made out. This complaint was, thus, filed. This complaint subsequently has been got revived on the basis of a letter written by respondent No.2 to S.S.P., Batala. As is seen, the FIR under Section 498A IPC is registered only after obtaining the opinion of A.D.A. (legal), Batala.

Without going into any other ground, it may be seen if any allegation specific or otherwise is made against the petitioner, who is a married sister-in-law. It is stated in the petition that the present petitioner is married for more than two years from the date of occurrence. This fact, however, is denied for want of knowledge in the reply filed by the State. This fact, as such, is not specifically denied and, as such, is not in any dispute. If the petitioner is a

married sister-in-law of the complainant, it would be reasonable to assume that she would not be likely available at the house of her parents to harass or maltreat or taunt the complainant. One can justifiably submit that there is no specific allegation made against the petitioner, who concededly is married sister-in-law of the complainant. Detailed reference to the contents of the FIR is made above. It is vaguely mentioned in the FIR that the petitioner alongwith her other relatives pressed the complainant for fulfilling the demand of dowry. It is then averred that the petitioner alongwith mother-in-law, father-in-law and her husband started teasing the complainant for bringing car and more dowry and had allegedly remarked that such dowry is given by lowly placed persons. Except for these two allegations made against the present petitioner, nothing else is urged. No date, time or other details of the allegations is disclosed. There is no demand seen from the allegations made in the FIR. The allegations, as standing against the petitioner, are not only vague but would not reveal an offence under Section 498A IPC against her. There may be some allegations specifically standing against other co-accused, for which they are facing prosecution. The allegations, as made against the present petitioner, would not be sufficient to indicate cruelty to bring her within the purview of an offence under Section 498A IPC. A perusal of Section would show that gravamen of offence under the Section is subjecting a woman to cruelty. Cruelty for the purpose of Section is defined by the explanation under the Section:-

> “Explanation.- For the purpose of this Section, “cruelty” means:-

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]"

Accordingly, harassment of a woman has to be with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security. The allegation in the FIR would, in my view, would fall short of this requirement of law to bring home the offence against the petitioner. In terms of the ratio of law laid down in State of Haryana and others Vs. Ch.Bhajan Lal & Ors., JT 1990 (4) S.C. 650, one of the valid grounds to quash FIR is that where no offence from the contents of the FIR is made out. The present case, in my considered view, would be covered by this criteria as laid down by the Hon'ble Supreme Court in Bhajan Lal's case (supra).

Accordingly, the petition is allowed. FIR No.4 dated 25.1.2007 under Section 498-A IPC, registered at Police Station Kotli Surat Malli, District Bhatinda, and the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner. It is made clear that any expression of opinion be not construed as opinion on merits of the case qua the remaining accused being prosecuted in the same FIR. Proceedings qua them would continue

without any effect thereon by this order passed in the present petition.

October 11,2007 **(RANJIT SINGH)**
tchurmi **JUDGE**